

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**REPORT OF PROCEEDINGS ON THE PROPOSED RECLASSIFICATION
OF
MAIDEN CREEK AND ALLEN CREEK IN CATAWBA AND LINCOLN COUNTIES
(CATAWBA RIVER BASIN)
FROM WS-II CA HQW AND WS-II HQW TO WS-V**

**PUBLIC HEARING
AUGUST 16, 2012
MAIDEN, NORTH CAROLINA**

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SUMMARY AND RECOMMENDATION

SUMMARY

In 2010, the Town of Maiden requested that two portions of Maiden and Allen Creeks in Catawba and Lincoln Counties be reclassified to recognize that these waters are formerly used public water supplies (request package attached as pages a-2 through a-3). Town council and staff understand that the Town cannot use these waters as a source of public water supply once these waters are reclassified from Water Supply-II (WS-II) High Quality Waters (HQW) and WS-II Critical Area (CA) HQW to WS-V. The reasons provided by the Town for the desired reclassification are as follows:

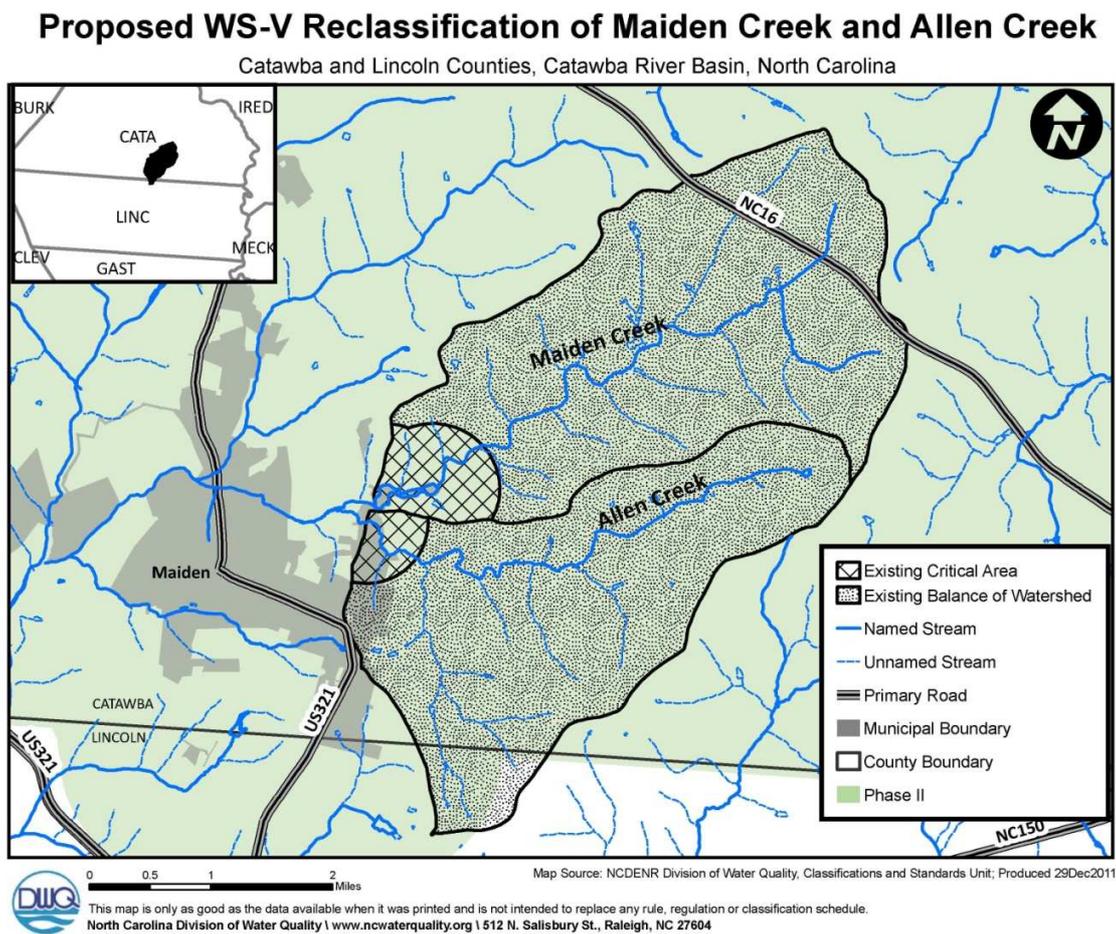
- The Town no longer uses nor will use these waters as water supplies, as they are insufficient for modern water demands;
- The associated water treatment plant has been dismantled;
- An existing long term contract allows the Town to receive treated water from the City of Hickory currently and into the future; and
- Other protective measures, namely the Phase II regulations, apply.

No water quality study was required for this proposed reclassification as the waters were formerly used as water supplies and are currently classified for water supply use. The WS-V primary classification is assigned to waters protected as water supplies that are generally upstream and draining to Class WS-IV waters, waters previously used for drinking water supply purposes, or waters used by industry to supply their employees with raw drinking water supply sources. The criteria and standards that must be met before waters can be classified to WS-V are outlined in Rule 15A NCAC 2B .0104, Considerations/Assigning/Implementing Water Supply Classifications, and in Rule 15A NCAC 2B .0218, Fresh Surface Water Quality Standards for WS-V Waters (rules attached as pages a-4 through a-10). These criteria include water supply standards and the requirement that water supply waters must be used for drinking, culinary, or food processing purposes. Unlike North Carolina's other water supply classifications, the WS-V designation does not apply restrictions to land development activities. For instance, within a WS-II water supply watershed, development restrictions apply within a CA as well as within the Balance of the Watershed (BW); a CA is the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed, and the BW is the remaining portion of the drainage area adjoining and upstream of the CA.

The Division of Water Quality (DWQ or division) has no water quality data for Allen Creek and DWQ's data for Maiden Creek, which was generated after this creek was classified as WS-II, actually shows less than excellent (high) water quality as well as impairment. The division's sampling was not a part of routine monitoring, but rather occurred once in response to concerns about sedimentation from logging upstream of the water supply reservoir, and in another instance in response to a Division of Water Resources (DWR) request to sample below the reservoir as part of data gathering for consideration of minimum flows. Thus, it appears that the HQW designation was assigned to these waters solely due to the WS-II designation; all WS-II waters are HQW by definition. Given this information, EPA staff stated that the removal of the HQW designation should not be an issue for that agency.

The portion of Maiden Creek proposed to be reclassified to WS-V extends from its source to the Maiden Reservoir dam and includes approximately 5,280 acres, which is comprised of 434 acres within the WS-II CA and 4,846 acres within the WS-II (BW) (Figure 1 and Table 1). There is one named tributary to this section of Maiden Creek (Bee Branch) that is to be reclassified from WS-II (BW) to WS-V. The portion of Allen Creek proposed to be reclassified to WS-V extends from its source to the planned Town of Maiden water supply intake, and includes nearly 4,293 acres, which is comprised of 176 acres within the WS-II CA and 4,117 acres within the WS-II (BW).

Figure 1.



A new water intake was approved to be built in Allen Creek, but the Town never built an intake in the creek. However, the Town did utilize water from Allen Creek a few times during past droughts.

Maiden Creek empties into Pinch Gut Creek, which flows to Clark Creek. Portions of Clark Creek are impaired for fecal coliform, biological integrity, copper and/or turbidity. The proposed

reclassification of Maiden and Allen Creeks should not impact the ability to restore Clark Creek or Maiden Creek, based on current understanding of development in the watersheds. The watersheds of Maiden and Allen Creek are currently dominated by, and are projected to be dominated by, a mixture of undeveloped forested and pasture lands, which are not impacted by the WS, HQW, and Phase II rules.

Name of Stream	Description	Existing Class	Description of Recommended Segment	Recommended Class
Maiden Creek	From source to a point 0.7 mile upstream from backwaters of Maiden Reservoir	WS-II HQW	Same	WS-V
Maiden Creek , including Maiden reservoir below elevation 842	From a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir	WS-II HQW CA	Same	WS-V
Bee Branch	From source to Maiden Creek	WS-II HQW	Same	WS-V
Allen Creek	From source to a point 0.7 mile upstream of Maiden water supply intake	WS-II HQW	Same	WS-V
Allen Creek	From a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake	WS-II HQW CA	Same	WS-V

Staff with the DWR's Public Water Supply (PWS) Section stated that the Maiden Creek intake and associated water treatment plant have been rendered inoperable and decommissioned. The staff also indicated that although Allen Creek was approved for a raw water intake, the Town never built an intake structure in the creek but did utilize water from the creek a few times in the past during times of drought. Staff with the River Basin Management Branch and Water Supply Planning Branch of DWR noted that the Town should be allowed to have the waters reclassified because the Town is currently purchasing treated water and plans to do so in the future. An "Agreement for Plant Capacity and Bulk Water Sale" was signed in 2002 by the Town and the City of Hickory; this agreement allows for the sale of capacity rights in the City of Hickory's Water Treatment Plant and treated water from the City of Hickory to the Town for 25 years.

If reclassified, several significant restrictions regarding wastewater discharges, new development, new landfills, and new land application sites will no longer apply to these water supply watersheds. However, there is no requirement that the ordinances of the involved local governments be amended should the reclassification become effective; this proposal does not place any additional requirements on the local governments, nor does it require the local governments to take or stop any actions.

In addition, Phase II rules already apply in the proposed areas, except 87 acres in Lincoln County. Compliance with WS-II stormwater and density rules equates to compliance with Phase II rules. Should the reclassification become effective and local governments decide to no longer

enforce the regulations associated with the existing classifications, compliance with Phase II rules would still be required. These rules would apply substantial, albeit not as stringent, restrictions on new development compared to the restrictions associated with the existing classifications of the subject waters. Finally, the water supply water quality standards will remain in effect for the subject waters due to the proposed WS-V designation.

According to Mooresville Regional Office (MRO) staff, there are currently no permitted or known planned wastewater discharges in the proposed areas, and in the existing WS-II CAs, there are currently no permitted or known planned landfills or application sites. According to local government and MRO staff, there is no known planned development in the subject areas. These areas contain very limited development and are primarily a mixture of undeveloped forested and pasture lands, which are not affected by the WS, HQW, nor Phase II rules.

Implications of the Proposed Reclassification

The protective management strategies for WS-V watersheds are outlined in the following rules (pages a-4 through a-10):

- 15A NCAC 2B .0104 Considerations/Assigning/Implementing Water Supply Classifications
- 15A NCAC 2B .0218 Fresh Surface Water Quality Standards for WS-V Waters

Rule 15A NCAC 2B .0104, Considerations/Assigning/Implementing Water Supply Classifications, describes regulations mainly pertaining to the responsibilities of local governments with jurisdiction in water supply watersheds, and these responsibilities involve actions concerning ordinances, engineered stormwater controls, normal pool elevation, Agricultural Cost Share Program, etc. (rule attached as pages a-4 through a-8). This regulation also addresses new, low density, high density, expanding, existing, and cluster development, redevelopment, and variances pertaining to development in water supply watersheds. Further topics include, but are not limited to, suitability of waters for water supply classifications, critical water supply watersheds, and future water supply use, as well as groundwater remediation projects, joint water quality monitoring and information sharing programs, roads, bridges, and silviculture activities in water supply watersheds.

One of the most important aspects of this rule is that local governments that have land use jurisdiction within a water supply watershed are responsible for developing and implementing water supply watershed ordinances in order to apply the development restrictions associated with most WS classifications.

Rule 15A NCAC 2B .0218, Fresh Surface Water Quality Standards for WS-V Waters, features regulations regarding the best usage of these waters, conditions related to best usage, and quality standards applicable to Class WS-V waters (for sewage, industrial waste, non-process industrial wastes, nonpoint source pollution, stormwater pollution, and other wastes and substances) (rule attached as pages a-9 through a-10). As mentioned above, unlike other WS classifications, WS-V has no restrictions on land development.

If reclassified, several significant restrictions, including the WS-II development restrictions that only affect new projects, will no longer apply to these water supply watersheds, but there is no requirement that the ordinances of the Town of Maiden, Catawba County, and Lincoln County implementing the WS-II new development restrictions be subsequently amended. Compliance with WS-II development restrictions satisfies the requirements of Phase II rules, which already apply in the proposed areas, except 87 acres in Lincoln County, and apply only to new development. Should local governments decide to no longer enforce these WS-II regulations, compliance with Phase II rules would still be required. For new development activities, the Phase II rules are less restrictive than the WS-II regulations but more restrictive than the WS-V regulations. For instance, the Phase II rules only affect new development disturbing one or more acres of land, which does not include most new individual homes and existing home expansions, whereas the WS-II regulations affect new development disturbing any amount of land acreage. The WS-V regulations do not restrict new development.

Finally, the water supply water quality standards will remain in effect for the subject waters due to the proposed WS-V designation. Table 2 summarizes and compares the requirements of the existing and proposed classifications. As mentioned above, the involved local governments would not be required to change their ordinances as a result of this proposal; therefore, the new development regulations in the third row of this chart entitled “WS-II HQW (Existing)” could remain in effect.. Regardless of whether the involved local governments modify their ordinances, the waste activity regulations (last two columns of Table 2) that are associated with the proposed reclassification would apply upon the reclassification’s adoption as those rules are administered by the state.

Currently, there are no permitted or known planned wastewater discharges in the proposed areas, and no permitted or known planned landfills or application sites in the existing WS-II CA’s. There is also no known planned development in the subject areas. These areas contain very limited development and are primarily a mixture of undeveloped forested and pasture lands. These land uses are not projected to change and are not affected under the WS, HQW, and Phase II rules. Therefore, no impact on future development activities will occur due to this reclassification, regardless of whether or not the local ordinances are changed to remove the WS-II requirements, as long as future development activities are of the same type of land uses as currently exist in these watersheds or are other land uses exempted from the WS-II, HQW and Phase II rules.

Given this information and that there is no requirement that the ordinances of the involved local governments be amended should the reclassification become effective, the quantifiable results of the proposal’s approved fiscal analysis showed no cost to the local governments and a one-time cost of \$355 to the state. The fiscal note with the proposed rule is attached as pages a-11 through a-18.

TABLE 2. SUMMARY AND COMPARISON OF EXISTING AND PROPOSED CLASSIFICATIONS' REQUIREMENTS						
Classification	Disturbance Threshold Trigger	Low Density Max BUA / High Density Max BUA	Low Density Max DU/Acre	High Density Setback	Landfills Allowed/ Land Application Sites Allowed	Wastewater Discharges
WS-II HQW (Existing)	None	6% CA, 12% BW / 24% CA, 30% BW	½ CA, 1/1 BW	100' Perennial Waters	No New Landfills in CA, No New Discharging Landfills in BW / No New Land Application Sites in CA	General Permits
WS-V in PHASE 2 Area (Allowed by Proposed Changes)	1 acre	24% / None	2/1	30' Perennial and Intermittent Waters	No Specific Restrictions / No Specific Restrictions	Any

DU = Dwelling Unit; BUA = Built Upon Area

Public Hearing Process and Comments Received

In accordance with North Carolina General Statutes, a public hearing was held on August 16, 2012, in Maiden, North Carolina (Catawba County). Notice of the proposal and hearing, including the proposed rule amendment, was published in the July 16, 2012, *North Carolina Register* (Volume 27, Issue 2) (proposed rule amendment attached as pages a-14 through a-18).

Announcements of the public hearing (announcement attached as pages a-19 and a-20) were sent to the Water Quality Rule-Making Announcements mailing list, the Division of Water Quality Rules e-mail list, staff of local governments with jurisdiction over land adjacent to the waters proposed to be reclassified, local libraries, and to other persons potentially interested in the proposed reclassification, including staff of local interest groups, environmental organizations, companies, and legislators and state agencies within North Carolina. The public announcement and request for publication were submitted on July 18, 2012 to seven local newspapers, *Hickory Daily Record*, *Catawba County Observer News Enterprise*, *Lincoln Times-News*, *Lincoln Tribune*, *Carolina Scoop*, *News at Norman dot com*, and *Charlotte Observer* (newspaper request for publication attached as page a-21).

Corey Basinger, Surface Water Protection Section Supervisor for the Winston-Salem Regional Office, served as hearing officer (hearing officer designation letter attached as page a-22). Nine people registered at the public hearing (list of attendees attached as page a-23). Of those nine people, all but two people provided the organization they were representing: Catawba County, Catawba Riverkeeper, Catawba County Farm Bureau, Lawing Real Estate, Town of Maiden, and Western Piedmont Council of Governments (WPCOG).

Opening comments and slides were presented by DWQ staff to provide a brief overview of the DWQ classification program and detailed information about the proposed reclassification. Then public comments on the proposed reclassification were taken.

Four individuals spoke at the hearing. Two of the speakers, representing Lawing Real Estate and WPCOG, as well as a third speaker who did not provide information regarding an affiliation with

a particular organization, supported the reclassification. The remaining speaker, representing the Catawba County Farm Bureau, expressed concerns regarding the proposal but did not specifically state opposition to it.

Written comments were accepted for this proposed reclassification from July 16, 2012 through September 14, 2012. Two letters were received. One letter (e-mail) from the City of Hickory provided a positive position on this proposal (letter attached as page a-24 through a-25). The other letter from the Catawba Riverkeeper Foundation provided a negative position on this proposal (letter attached as pages a-26 through a-28).

Summary of Concerns & Staff Responses

As mentioned above, there were some concerns voiced during the comment period. Each issue of concern (in *italics*) is quoted below and is followed by a DWQ response:

1. ***Concern:*** *“Maiden and the County would be losing a freshwater source for drinking water. It could prove invaluable during a drought crisis, if there were ever issues with receiving water from Hickory, and to meet demand, which is greater than ever everywhere and is already not being met locally. Maiden needs to plan for the near future and have its own drinking water supply. These two creeks may be not quite up to (water supply) standards today, but may get better.”*

Response: The Town’s contract with the City of Hickory is intended to meet the Town’s projected potable water supply needs. Staff with the River Basin Management Branch and Water Supply Planning Branch of DWR, which is the state’s overseer of water quantity and water supply treatability matters, stated that the Town should be allowed to have the waters reclassified because the Town is currently purchasing treated water and plans to do so in the future. In addition, the subject waters could be reclassified in the future as public water supply sources if it could be demonstrated that drinking water supply needs are not being met. Finally, there is no data showing that the creeks do not meet water supply water quality standards; these standards will remain in effect for the subject waters due to the WS-V proposed designation, and thus, will not be affected by this proposal.

2. ***Concern:*** *“Current lack of proposals for industrial or development projects should not justify easing the restrictions, as many projects will not even be planning if the current water classification inhibits them. There should be a good reason for this proposal other than it might encourage development (and sprawl); it’s important to not needlessly allow these streams to be degraded and there are a limited number of streams in the Catawba basin that remain suitable as potential sources of drinking water in the future. There is a good size area of land in the proposed areas that needs really high quality water potentially to help irrigate field crops.”*

Response: As mentioned above, this proposed reclassification will recognize that these waters are formerly used public water supplies. In addition, the reasons provided by the Town for the desired reclassification are as follows: the Town no longer uses and will not use these water supplies, as they are insufficient for modern water demands; the

associated water treatment plant has been dismantled; an existing long term contract allows the Town to receive treated water from the City of Hickory currently and into the future; and other protective measures, namely the Phase II regulations, apply. Furthermore, there is no requirement that the ordinances of the involved local governments be amended to remove the current regulatory restrictions should the reclassification become effective. Finally, based on current and projected uses within the watersheds of the subject creeks, there is no indication that these streams would be degraded should the reclassification become effective.

3. ***Concern:*** “*Lake Hickory, which the City of Hickory uses as a raw water supply source, is high in organic matter and lots of chemicals have to be used to treat it that get into the receiving waters and shape a creek’s use.*”

Response: Most water treatment plants do use chemicals to treat raw water. The Division of Water Quality issues permits for water treatment plants, in order to ensure that the treated effluent from those plants does not alter the uses of receiving water bodies and to ensure that applicable water quality standards are maintained. In addition, the Division of Water Resources issues permits for water treatment plants, in order to ensure that those plants adequately treat raw water for human consumption. According to Mooresville Regional DWQ and DWR staff, Lake Hickory’s average Total Organic Carbon (TOC) levels are very low based on (water supply sources used by) WTPs in the southern U.S. states, and the use of treatment chemicals at the City of Hickory’s WTP is nearly average compared to such use at other WTPs. In addition, according to Mooresville Regional staff, the City of Hickory’s WTP’s compliance with regulatory requirements associated with finished drinking water and wastewater generated during the treatment process has been very good.

4. ***Concern:*** “*The proposal would benefit the County as they decide if acreage per homes could be decreased and thus, there could be larger developments. Do we want this area to be developed? Do we want to pay for schools but not be associated with the new developments? People who own land might want to set up for development. NC 16 opened a gateway for Charlotte people to move in this area. Once do this, hard to turn back.*”

Response: It is possible that new development will occur in these areas; however, at this time the local governments have indicated that none is planned. The local governments and their constituencies have the prerogative to maintain current development requirements and, even if those requirements are removed, the Phase II requirements provide protections that must be maintained in these watersheds.

RECOMMENDATION

It is the recommendation of the Hearing Officer that the reclassification of two segments of the Maiden Creek and two segments of Allen Creek, as proposed herein, be approved by the Environmental Management Commission. In making this recommendation, the Hearing Officer

has considered the requirements of General Statutes 150B-21.2, 143-214.1, 143-215, and 143-215.3(a)(1), and Rules 15A NCAC 2B .0100 [Procedures for Assignment of Water Quality Standards, especially 15A NCAC 2B .0104 (Considerations/Assigning/Implementing Water Supply Classifications)] and 15A NCAC 2B .0218 (Fresh Surface Water Quality Standards for WS-V Waters). In addition, consideration was given to the fact that the Town no longer uses and will not use these water supplies, as they are insufficient for modern water demands; the associated water treatment plant has been dismantled; an existing long term contract allows the Town to receive treated water from the City of Hickory currently and into the future; and other protective measures, namely the Phase II regulations, apply. Furthermore, comments received during the public comment period were considered.

In taking this action, Rule 15A NCAC 2B .0308, which references the Schedule of Classifications for the Catawba River Basin, will show that the Environmental Management Commission has revised the schedule for:

- the portion of Maiden Creek [Index No. 11-129-5-7-2-(1)] from source to a point 0.7 mile upstream from backwaters of Maiden Reservoir, and its named tributary, Bee Branch [Index No. 11-129-5-7-2-2], from Class WS-II HQW to WS-V;
- the portion of Maiden Creek [Index No. 11-129-5-7-2-(2.5)] from a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir from Class WS-II HQW CA to WS-V;
- the portion of Allen Creek [Index No. 11-129-5-7-2-4-(1)] from source to a point 0.7 mile upstream of Maiden water supply intake from Class WS-II HQW to WS-V; and
- the portion of Allen Creek [Index No. 11-129-5-7-2-4-(2)] from a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake from Class WS-II HQW CA to WS-V.

The proposed effective date of this reclassification is March 1, 2013.

APPENDICES

**APPLICATION TO REQUEST
RECLASSIFICATION OF NC SURFACE WATER**

(Please feel free to attach additional pages of information to this application if necessary)

1. Date of Request: September 29, 2010
2. Requested by: The Town of Maiden

Robert L. Smyre, Mayor, (828) 428-5000
 William "Todd" Herms, Town Manager, (828) 428-5020, therms@mail.ci.maiden.nc.us
 Project Contact, Sam Schultz, Planning Director, (828) 428-5034, sschultz@mail.ci.maiden.nc.us

Mailing address:

Town of Maiden
 113 W. Main St.
 Maiden, NC 28650

3. River Basin/s: Catawba River Basin
 County/ies: Catawba County and Lincoln County

4. List Waterbody(ies) Requested for Reclassification:
 (*see reverse side of this form for assistance)

<u>Waterbody Name</u>	<u>Waterbody Index #</u>	<u>Current Class</u>	<u>Request Class</u>
Maiden Creek	11-129-5-7-2-(1), 11-129-5—2-(2.5)	WS-II; HQW	WS-V
Allen Creek	11-129-5-7-2-4-(1) 11-129-5-7-2-4-(2)	WS-II; HQW	WS-V

5. ATTACHMENTS:
For All Classes: Is a USGS 7.5 minute topographic map outlining the subject waters/land area attached? yes, please see all 4 7.5 minute maps and 30 X 60 minute map.
For Class WS:
 -Is a resolution from each local government with land use jurisdiction within the boundaries of the proposed water supply watershed attached? yes
 - Please provide a longitude and latitude for the proposed intake site location.
 Maiden Creek/Maiden Lake: existing intake house 35°35'03.277" N 81°11'29.460" W
 Allen Creek: no intake exists due to dam not being built.

 - Has an EA/EIS been submitted? No If so, please provide the status of EA/EIS.

6. For Non-WS Reclassifications: Why do you think the waterbody characteristics of interest to you aren't being or won't be adequately protected (as currently classified)?
NA

7. Reason for Request (please view basin plan for further assistance): The Town of Maiden no longer utilizes the Maiden Lake water supply and never constructed the dam for the second lake. The Town has a long term contract with the City of Hickory to provide water to the Town. The Hickory supply is in excess of what the Town could supply from the lake. Modern water demands could not be properly provided for utilizing the existing and un-built water supplies. The WS restrictions are overly burdensome to property owners and the Town has other protective measures in place following the Phase II Stormwater regulations to protect the creeks, streams and lake. If in the highly unlikely event the Town were to ever request permission to restart the water plant, NCDWQ would be in the proper position to review the current water quality standards, require changes, place additional technical fixes and or turn down the request. The Town of Maiden in its resolution to request reclassification has clearly stated that the Town has no intentions of ever starting the water plant again.
8. Would you be willing to assist DWQ in identifying potentially affected and interested parties? yes

Additional information on the reverse side of the application.

15A NCAC 02B .0104 CONSIDERATIONS/ASSIGNING/IMPLEMENTING WATER SUPPLY CLASSIFICATIONS

(a) In determining the suitability of waters for use as a source of water supply for drinking, culinary or food processing purposes after approved treatment, the Commission will be guided by the physical, chemical, and bacteriological maximum contaminant levels specified by Environmental Protection Agency regulations adopted pursuant to the Public Health Service Act, 42 U.S.C. 201 et seq., as amended by the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq. In addition, the Commission shall be guided by the requirements for unfiltered and filtered water supplies and the maximum contaminant levels specified in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1100, .1200 and .1500 and comments provided by the Division of Environmental Health.

(b) All local governments that have land use authority within designated water supply watersheds shall adopt and enforce ordinances that at a minimum meet the requirements of G.S. 143-214.5 and this Subchapter. The Commission shall approve local water supply protection programs if it determines that the requirements of the local program equal or exceed the minimum statewide water supply watershed management requirements adopted pursuant to this Section. Local governments may adopt and enforce more stringent controls. Local management programs and modifications to these programs must be approved by the Commission and shall be kept on file by the Division of Environmental Management, Division of Environmental Health and the Division of Community Assistance.

(c) All waters used for water supply purposes or intended for future water supply use shall be classified to the most appropriate water supply classification as determined by the Commission. Water supplies may be reclassified to a more or less protective water supply classification on a case-by-case basis through the rule-making process. A more protective water supply classification may be applied to existing water supply watersheds after receipt of a resolution from all local governments having land use jurisdiction within the designated water supply watershed requesting a more protective water supply classification. Local government(s) requesting the Future Water Supply classification must provide to the Division evidence of intent which may include one or a combination of the following: capital improvement plans, a Water Supply Plan as described in G.S. 143-355(1), bond issuance for the water treatment plant or land acquisition records. A 1:24,000 scale USGS topographical map delineating the location of the intended water supply intake is also required. Requirements for activities administered by the State of North Carolina, such as the issuance of permits for landfills, NPDES wastewater discharges, land application of residuals and road construction activities shall be effective upon reclassification for future water supply use. The requirements shall apply to the critical area and balance of the watershed or protected area as appropriate. Upon receipt of the final approval letter from the Division of Environmental Health for construction of the water treatment plant and water supply intake, the Commission shall initiate rule-making to modify the Future Water Supply supplemental classification. Local government implementation is not required until 270 days after the Commission has modified the Future Water Supply (FWS) supplemental classification through the rule-making process and notified the affected local government(s) that the appropriate local government land use requirements applicable for the water supply classifications are to be adopted, implemented and submitted to the Commission for approval. Local governments may also adopt land use ordinances that meet or exceed the state's minimum requirements for water supply watershed protection prior to the end of the 270 day deadline. The requirements for FWS may also be applied to waters formerly used for drinking water supply purposes, and currently classified for water supply use, at the request of local government(s) desiring protection of the watershed for future water supply use.

(d) In considering the reclassification of waters for water supply purposes, the Commission shall take into consideration the relative proximity, quantity, composition, natural dilution and diminution of potential sources of pollution to determine that risks posed by all significant pollutants are adequately considered.

(e) For the purposes of implementing the water supply watershed protection rules (15A NCAC 2B .0100, .0200 and .0300) and the requirements of G.S. 143-214.5, the following schedule of implementation shall be applicable:

August 3, 1992 - Activities administered by the State of North Carolina, such as the issuance of permits for landfills, NPDES wastewater discharges, and land application of sludge/residuals, and road construction activities, shall become effective regardless of the deadlines for municipal and county water supply watershed protection ordinance adoptions;

By July 1, 1993 - Affected municipalities with a population greater than 5,000 shall adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet or exceed the minimum management requirements of these Rules;

By October 1, 1993 - Affected municipalities with a population less than 5,000 shall adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet or exceed the minimum management requirements of these Rules;

By January 1, 1994 -Affected county governments shall adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet or exceed the minimum management requirements of these Rules.

Affected local government drinking water supply protection ordinances shall become effective on or before these dates. Local governments may choose to adopt, implement and enforce these provisions prior to this date. Three copies of the adopted and effective relevant ordinances shall be sent to the Division along with a cover letter from the municipal or county attorney, or its designated legal counsel, stating that the local government drinking water supply protection ordinances shall meet or exceed the rules in 15A NCAC 2B .0100, .0200 and .0300. If the rules in 15A NCAC 2B .0100, .0200 and .0300 are revised, the Division shall modify and distribute to local governments, as appropriate, a revised model ordinance. The Division shall approve the amended local maps and ordinances, or request the Commission to take appropriate action under G.S. 143-214.5.

(f) Wherever in this Subchapter it is provided that local governments assume responsibility for operation and maintenance of engineered stormwater control(s), this shall be construed to require responsible local governments to inspect such controls at least once per year, to determine whether the controls are performing as designed and intended. Records of inspections shall be maintained on forms supplied by the Division. Local governments may require payment of reasonable inspection fees by entities which own the controls, as authorized by law. In the event inspection shows that a control is not performing adequately, the local government shall order the owning entity to take corrective actions. If the entity fails to take sufficient corrective actions, the local government may impose civil penalties and pursue other available remedies in accordance with the law. The availability of new engineered stormwater controls as an alternative to lower development density and other measures under the provisions of this Subchapter and local ordinances approved by the Commission shall be conditioned on the posting of adequate financial assurance, in the form of a cash deposit or bond made payable to the responsible local government, or other acceptable security. The establishment of a stormwater utility by the responsible local government shall be deemed adequate financial assurance. The purpose of the required financial assurance is to assure that maintenance, repairs or reconstruction necessary for adequate performance of the controls may be made by the owning entity or the local government which may choose to assume ownership and maintenance responsibility.

(g) Where higher density developments are allowed, stormwater control systems must use wet detention ponds as described in 15A NCAC 2H .1003(g)(2), (g)(3), (i), (j), (k), and (l). Alternative stormwater management systems consisting of other treatment options, or a combination of treatment options, may be approved by the Director. The design criteria for approval shall be 85 percent average annual removal of Total Suspended Solids. Also the discharge rate shall meet one of the following criteria:

- (1) the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or
- (2) the post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24 hour storm.

(h) Where no practicable alternative exists, discharge from groundwater remediation projects addressing water quality problems shall be allowed in accordance with other applicable requirements in all water supply classifications.

(i) To further the cooperative nature of the water supply watershed management and protection program provided for herein, local governments with jurisdiction over portions of classified watersheds and local governments which derive their water supply from within such watersheds are encouraged to establish joint water quality monitoring and information sharing programs, by interlocal agreement or otherwise. Such cooperative programs shall be established in consultation with the Division.

(j) Where no practicable alternative exists other than surface water discharge, previously unknown existing unpermitted wastewater discharges shall incorporate the best possible technology treatment as deemed appropriate by the Division.

(k) The Commission may designate water supply watersheds or portions thereof as critical water supply watersheds pursuant to G.S. 143-214.5(b).

(l) A more protective classification may be allowed by the Commission although minor occurrences of nonconforming activities are present prior to reclassification. When the Commission allows a more protective classification, expansions of existing wastewater discharges that otherwise would have been prohibited may be allowed if there is no increase in permitted pollutant loading; other discharges of treated wastewater existing at the time of reclassification may be required to meet more stringent effluent limitations as determined by the Division. Consideration of all practicable alternatives to surface water discharge must be documented.

(m) The construction of new roads and bridges and non-residential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area shall be

avoided. The Department of Transportation shall use BMPs as outlined in their document entitled "Best Management Practices for the Protection of Surface Waters" which is hereby incorporated by reference including all subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Management, Water Quality Planning Branch, 512 North Salisbury Street, Raleigh, North Carolina.

(n) Activities within water supply watersheds are also governed by the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1100, .1200 and .1500. Proposed expansions of treated wastewater discharges to water supply watersheds must be approved by the Division of Environmental Health.

(o) Local governments shall correctly delineate the approximate normal pool elevation for backwaters of water supply reservoirs for the purposes of determining the critical and protected area boundaries as appropriate. Local governments must submit to the Division a 1:24,000 scale U.S.G.S. topographic map which shows the local government's corporate and extraterritorial jurisdiction boundaries, the Commission's adopted critical and protected area boundaries, as well as the local government's interpreted critical and protected area boundaries. All revisions (expansions or deletions) to these areas must be submitted to the Division and approved by the Commission prior to local government revision.

(p) Local governments shall encourage participation in the Agricultural Cost Share Program. The Soil and Water Conservation Commission is the designated management agency responsible for implementing the provisions of the rules in 15A NCAC 2H .0200 pertaining to agricultural activities. Agricultural activities are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624) and 15A NCAC 2H .0217). The following shall be required within WS-I watersheds and the critical areas of WS-II, WS-III and WS-IV watersheds:

- (1) Agricultural activities conducted after January 1, 1993 shall maintain a minimum 10 foot vegetated buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies; and
- (2) Animal operation deemed permitted and permitted under 15A NCAC 2H .0217 are allowed in all classified water supply watersheds.

(q) Existing development is not subject to the requirements of these Rules. Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on single family residential redevelopment. Expansions to structures classified as existing development must meet the requirements of the rules in 15A NCAC 2B .0100, .0200 and .0300; however, the built-upon area of the existing development is not required to be included in the density calculations. Expansions to structures other than existing development must meet the density requirements of these Rules for the entire project site. If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of these Rules if it is developed for single-family residential purposes. Local governments may, however, require the combination of contiguous nonconforming lots of record owned by the same party in order to establish a lot or lots that meet or nearly meet the development restrictions of the rules under 15A NCAC 2B. Any lot or parcel created as part of a family subdivision after the effective date of these Rules shall be exempt from these Rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these Rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable. Local governments may also apply more stringent controls relating to determining existing development, redevelopment or expansions.

(r) Development activities may be granted minor variances by local governments utilizing the procedures of G.S. 153A Article 18, or G.S. 160A, Article 19. A description of each project receiving a variance and the reason for granting the variance shall be submitted to the Commission on an annual basis by January 1. For all proposed major and minor variances from the minimum statewide watershed protection rules, the local Watershed Review Board shall make findings of fact showing that:

- (1) there are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the ordinance;
- (2) the variance is in harmony with the general purpose and intent of the local watershed protection ordinance and preserves its spirit; and
- (3) in granting the variance, the public safety and welfare have been assured and substantial justice has been done.

The local Watershed Review Board may attach conditions to the major or minor variance approval that support the purpose of the local watershed protection ordinance. If the variance request qualifies as a major variance, and the local Watershed Review Board decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the major variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes the local Watershed Review Board to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the major variance, then the Commission shall prepare a Commission decision to be sent to the local Watershed Review Board. The local Watershed Review Board shall prepare a final decision denying the major variance. For all proposed major and minor variances the local government considering or requesting the variance shall notify and allow a reasonable comment period for all other local governments having jurisdiction within the watershed area governed by these Rules and the entity using the water supply for consumption. Appeals from the local government decision on a major or minor variance request are made on certiorari to the local Superior Court. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court. When local ordinances are more stringent than the state's minimum water supply protection rules a variance to the local government's ordinance is not considered a major variance as long as the result of the variance is not less stringent than the state's minimum requirements.

(s) Cluster development is allowed on a project-by-project basis as follows:

- (1) Overall density of the project meets associated density or stormwater control requirements under 15A NCAC 2B .0200;
- (2) Buffers meet the minimum statewide water supply watershed protection requirements;
- (3) Built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;
- (4) Areas of concentrated density development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways;
- (5) Remainder of tract to remain in vegetated or natural state;
- (6) The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds; and
- (7) Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

(t) Local governments may administer oversight of future development activities in single family residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built-upon area, as long as the wet detention pond or other approved stormwater control system is sized to capture and treat runoff from all pervious and built-upon surfaces shown on the development plan and any off-site drainage from pervious and built-upon surfaces, and when an additional safety factor of 15 percent of built-upon area of the project site is figured in.

(u) All new development shall meet the development requirements on a project-by-project basis except local governments may submit ordinances and ordinance revisions which use density or built-upon area criteria averaged throughout the local government's watershed jurisdiction instead of on a project-by-project basis within the watershed. Prior to approval of the ordinance or amendment, the local government must demonstrate to the Commission that the provisions as averaged meet or exceed the statewide minimum requirements, and that a mechanism exists to ensure the orderly and planned distribution of development potential throughout the watershed jurisdiction.

(v) Silviculture activities are subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 1I .0101 - .0209). The Division of Forest Resources is the designated management agency responsible for implementing the provisions of the rules in 15A NCAC 2B .0200 pertaining to silviculture activities.

(w) Local governments shall, as the existing laws allow, develop, implement, and enforce comprehensive nonpoint source and stormwater discharge control programs to reduce water pollution from activities within water supply watersheds such as development, forestry, landfills, mining, on-site sanitary sewage systems which utilize ground adsorption, toxic and hazardous materials, transportation, and water based recreation.

(x) When the Commission assumes a local water supply protection program as specified under G.S. 143-214.5(e) all local permits authorizing construction and development activities as regulated by the statewide minimum water supply watershed protection rules of this Subchapter must be approved by the Commission prior to local government issuance.

(y) In the event that stormwater management systems or facilities may impact existing waters or wetlands of the United States, the Clean Water Act requires that these systems or facilities be consistent with all federal and state requirements.

(z) A model local water supply watershed management and protection ordinance, as approved by the Commission in accordance with G.S. 143-214.5, is on file with the Office of Administrative Hearings and may be obtained by writing to: Water Quality Planning Branch, Division of Environmental Management, Post Office Box 29535, Raleigh, North Carolina 27626-0535.

(aa) The Commission may delegate such matters as variance approval, extension of deadlines for submission of corrected ordinances and assessment of civil penalties to the Director.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
Eff. February 1, 1976;
Amended Eff. August 1, 1995; August 3, 1992; March 1, 1991; October 1, 1989.

15A NCAC 02B .0218 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-V WATERS

The following water quality standards apply to surface water supply waters that are classified WS-V. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class WS-V waters.

- (1) The best usage of WS-V waters are as follows: waters that are protected as water supplies which are generally upstream and draining to Class WS-IV waters; or waters previously used for drinking water supply purposes; or waters used by industry to supply their employees, but not municipalities or counties, with a raw drinking water supply source, although this type of use is not restricted to WS-V classification; and all Class C uses. The Commission may consider a more protective classification for the water supply if a resolution requesting a more protective classification is submitted from all local governments having land use jurisdiction within the affected watershed;
- (2) The conditions related to the best usage are as follows: waters of this class are protected water supplies; the waters, following treatment required by the Division of Environmental Health, shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes which are specified in the national drinking water regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500; no categorical restrictions on watershed development or wastewater discharges are required, however, the Commission or its designee may apply management requirements for the protection of waters downstream of receiving waters (15A NCAC 02B .0203). Sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard;
- (3) Quality standards applicable to Class WS-V Waters are as follows:
 - (a) Sewage, industrial wastes, non-process industrial wastes, or other wastes: none shall be allowed that have an adverse effect on human health or that are not effectively treated to the satisfaction of the Commission and in accordance with the requirements of the Division of Environmental Health, North Carolina Department of Environment and Natural Resources. Any discharges or industrial users subject to pretreatment standards may be required by the Commission to disclose all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances;
 - (b) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (c) Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;
 - (d) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies which can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
 - (e) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
 - (f) Total hardness: not greater than 100 mg/l as calcium carbonate;
 - (g) Total dissolved solids: not greater than 500 mg/l;
 - (h) Toxic and other deleterious substances:
 - (i) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for non-carcinogens in Class WS-V waters:
 - (A) Barium: 1.0 mg/l;
 - (B) Chloride: 250 mg/l;
 - (C) Manganese: 200 ug/l;
 - (D) Nickel: 25 ug/l;

- (E) Nitrate nitrogen: 10.0 mg/l;
 - (F) 2,4-D: 100 ug/l;
 - (G) 2,4,5-TP (Silvex): 10 ug/l;
 - (H) Sulfates: 250 mg/l.
- (ii) Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption for carcinogens in Class WS-V waters:
- (A) Aldrin: 0.05 ng/l;
 - (B) Arsenic: 10 ug/l;
 - (C) Benzene: 1.19 ug/l;
 - (D) Carbon tetrachloride: 0.254 ug/l;
 - (E) Chlordane: 0.8 ng/l;
 - (F) Chlorinated benzenes: 488 ug/l;
 - (G) DDT: 0.2 ng/l;
 - (H) Dieldrin: 0.05 ng/l;
 - (I) Dioxin: 0.000005 ng/l;
 - (J) Heptachlor: 0.08 ng/l;
 - (K) Hexachlorobutadiene: 0.44 ug/l;
 - (L) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (M) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (N) Tetrachloroethylene: 0.7 ug/l;
 - (O) Trichloroethylene: 2.5 ug/l;
 - (P) Vinyl Chloride: 0.025 ug/l.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
 Eff. October 1, 1989;
 Amended Eff. May 1, 2007; April 1, 2003; October 1, 1995.

FISCAL NOTE**Rule Citation Number:** 15A NCAC 2B .0308 Catawba River Basin**Rule Topic:** Proposed Reclassification of Two Segments of Maiden Creek and Two Segments of Allen Creek from Class Water Supply-II (WS-II) Critical Area (CA) High Quality Waters (HQW) and Class WS-II HQW to Class WS-V**DENR Division:** Division of Water Quality**Staff Contact:** Elizabeth Kountis, Environmental Senior Specialist, Division of Water Quality (DWQ)
(919) 807-6418
elizabeth.kountis@ncdenr.gov

Impact Summary:	State government:	Yes
	Local government:	No
	Private entities:	No
	Substantial impact:	No
	Federal government:	No

Authority: G.S. 143-214.5**Necessity:** This proposed reclassification is required to reflect an accurate representation of the current use of these waters. The Town of Maiden no longer uses these waters as public water supplies and has no plans to use these waters as public water supplies in the future. This proposed rule change complies with Executive Order 70 and serves the public interest by keeping water classifications current.**Summary**

The Town of Maiden (Town) has requested that two segments of Maiden Creek and two segments of Allen Creek along with these segments' associated watersheds in Catawba and Lincoln Counties (Catawba River Basin) be reclassified from Class Water Supply-II (WS-II) Critical Area (CA) High Quality Waters (HQW) and Class WS-II HQW to Class WS-V for use as former public water supplies. The WS-V designation would be the most appropriate classification for this use and these waters (see Appendix 1 for the proposed rule change text).

This proposal would acknowledge that the Town no longer uses, and does not plan to use, these waters as public water supplies. In these watersheds there are no existing or planned industrial or domestic wastewater discharges, and no planned land application sites, landfills, or development, that would be affected by the proposal. However, the proposed reclassification would relax restrictions on any future, but currently unplanned, wastewater discharges and landfills in all the areas affected by the proposal, and land application sites in the Critical Areas affected by the proposal.

This proposal does not place any additional requirements on the local governments, Lincoln County, Catawba County, and the Town, with jurisdiction in the subject areas. The proposal does not require the local governments to modify existing development-related ordinances, but the local governments will have the option to do so if desired. The one-time cost to DENR for this proposal is estimated at \$355. The analysis of the proposed rule indicates that estimated annual economic impacts would not meet or exceed \$500,000. The effective reclassification date is estimated to be March 1, 2013.

Fiscal Note for 15A NCAC 2B .0308 Catawba River Basin

I. Purpose of Rule and Background

The purpose of this rule change is to acknowledge that the Town no longer uses, and does not plan to use, these waters as public water supplies, as these waters are insufficient to meet water demands. An existing long term contract with the City of Hickory (City) allows the Town to receive treated water from the City currently and into the future. The Town has not used the subject waters as public water supplies since the contract with the City began in 2002. This proposed reclassification will result in an updated, accurate representation of the current use of these waters.

The Division of Water Quality assigns all surface waters a primary classification to designate their best uses. Class C is the most basic classification for freshwater and is intended to protect the following uses: secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, and agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. Other primary classifications are assigned to protect waters for such uses as shellfishing (Class SA), drinking water supply (WS-I through WS-V), and primary recreation (B). Supplemental classifications afford additional protections and include Nutrient Sensitive Waters (NSW) and High Quality Waters (HQW).

The five drinking water supply classifications, WS-I through WS-V, reflect the variability in the types of water supply watersheds across the state. The Water Supply Watershed Protection Act (North Carolina General Statute 143-214.5) requires the Environmental Management Commission to adopt rules to protect the state's surface drinking water supply watersheds.

The Town has requested that two portions of Maiden Creek and two portions of Allen Creek along with these segments' associated watersheds in Catawba and Lincoln Counties (Catawba River Basin) be reclassified from Class Water Supply-II (WS-II) Critical Area (CA) High Quality Waters (HQW) and Class WS-II HQW to Class WS-V for use as former public water supplies. The WS-V designation would be the most appropriate classifications for this use and these waters (see Appendix 1 for the proposed rule change text). The WS-V classification for one of the Maiden Creek segments would extend from the source of Maiden Creek to a point 0.7 mile upstream from the backwaters of Maiden Reservoir, and the WS-V classification for the other Maiden Creek segment would extend from that same point (0.7 mile upstream from the backwaters of Maiden Reservoir) to the dam at Maiden Reservoir. The WS-V classification for one of the Allen Creek segments would extend from the source of Allen Creek to a point 0.7 mile upstream of the Maiden water supply intake, and the WS-V classification for the other Allen Creek segment would extend from that point (0.7 mile upstream of the Maiden water supply intake) to the Maiden water supply intake. See the Guide to Freshwater Classifications Chart (PDF) for WS-V regulations at the following website: <http://portal.ncdenr.org/web/wq/ps/csu/classifications>.

II. Costs Regulated Parties

(a) New and Existing Wastewater Discharges, Landfills and Land Application Sites

There are currently no permitted wastewater discharges within the proposed areas. In addition, there are no known planned wastewater discharges into the proposed waters. There are no planned landfills and no planned land application sites in the proposed areas. The proposed reclassification would relax restrictions on any future, but currently unplanned, wastewater discharges and landfills in all the areas affected by the proposal and land application sites in the Critical Areas affected by the proposal.

(b) New Development

According to NC DWQ Regional office staff, as well as Sam Shultz (Planning Director for the Town of Maiden), Andrew Bryant (Planner for Lincoln County), and Chris Timberlake (Planner for Catawba County), there are no known plans for new development in the proposed areas.

(c) Local Governments

The Town, Lincoln County and Catawba County would not be required to take or stop any actions as a result of this proposal. The reclassification does not require the local governments with jurisdiction in the proposed areas to modify existing development-related ordinances, but the local governments will have the option to do so if desired.

(d) Department of Transportation (DOT)

This reclassification would not affect planned DOT activities in the area according to Matthew Lauffer (NC DOT Highway Stormwater Program Project Manager) and David Harris (NC DOT State Roadside Erosion Control and Vegetation Management Engineer).

Implementing Agencies**(a) Division of Water Quality**

The NC DWQ Central office and Regional office staff will oversee the processing of the proposed rule. DWQ staff will handle administrative procedures, educational and technical assistance and rule/policy evaluations. In addition, there are DWQ staff who will specifically oversee and assist local governments with watershed planning and ordinances. The division issues permits, conducts inspections and takes enforcement actions. DWQ monitors and keep records of compliance associated with their inspections and enforcement activities.

The Division of Water Quality anticipates that if this rule becomes effective, there will be a one-time cost of \$355 to the state. About \$240 of this cost is to be used to notify the Town, Lincoln County and Catawba County of the classification change when it becomes effective, and the remaining \$115 of this cost is to be incurred to update state databases featuring the subject waters.

The formula used to estimate the above-mentioned costs is the following:

$$\text{One-time Cost to State} = [[\#tasks] \times [hrs/task] \times [staff\ compensation/hr]] + [25\% \text{ overhead}]$$

“Tasks” include phone calls, letters, data entry, etc. that would be performed by state staff, and “staff compensation/hr,” which is based on salary information from OSBM as of July 1, 2008, includes salary, payroll taxes, retirement, and health benefits.

III. Benefits**(a) Humans**

This reclassification will reflect the current use of these waters as former public water supplies. The citizens of the area will not incur any expected benefits from the reclassification of these river segments for this use, as no changes to local government programs are required, and there are no existing or proposed activities affected by the proposal.

(b) Environment/Ecosystem

Fiscal Note for 15A NCAC 2B .0308 Catawba River Basin

The environment will not incur any benefits from the proposal. None of the existing or proposed activities or programs administered by the Town, Lincoln County, and Catawba County will be required to change as a result of this proposed rule.

IV. Total Costs and Benefits

DENR anticipates approximately \$355 in one-time costs for this reclassification. The analysis of the proposed rule indicates that estimated annual economic impacts would be significantly less than \$500,000.

APPENDIX 1

15A NCAC 02B .0308 is proposed for amendment as follows:

15A NCAC 02B .0308 CATAWBA RIVER BASIN

(a) The Catawba River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina;
 - (B) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C."

(c) The Catawba River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977 see Paragraph (d) of this Rule;
- (2) August 12, 1979 see Paragraph (e) of this Rule;
- (3) April 1, 1982 see Paragraph (f) of this Rule;
- (4) January 1, 1985 see Paragraph (g) of this Rule;
- (5) August 1, 1985 see Paragraph (h) of this Rule;
- (6) February 1, 1986 see Paragraph (i) of this Rule;
- (7) March 1, 1989 see Paragraph (j) of this Rule;
- (8) May 1, 1989 see Paragraph (k) of this Rule;
- (9) March 1, 1990 see Paragraph (l) of this Rule;
- (10) August 1, 1990 see Paragraph (m) of this Rule;
- (11) August 3, 1992 see Paragraph (n) of this Rule;
- (12) April 1, 1994 see Paragraph (o) of this Rule;
- (13) July 1, 1995 see Paragraph (p) of this Rule;
- (14) September 1, 1996 see Paragraph (q) of this Rule;
- (15) August 1, 1998 see Paragraph (r) of this Rule;
- (16) April 1, 1999 see Paragraph (s) of this Rule;
- (17) August 1, 2000 see Paragraph (t) of this Rule;
- (18) August 1, 2004 see Paragraph (u) of this Rule;
- (19) May 1, 2007 see Paragraph (v) of this Rule; and
- (20) September 1, 2010 see Paragraph (w) of this ~~Rule.~~ Rule; and
- (21) March 1, 2013 see Paragraph (x) of this Rule.

(d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1977 as follows:

- (1) Torrence Branch (Index No. 11-136) from source to North Carolina-South Carolina State Line was reclassified from Class D to Class B; and
- (2) Edwards Branch (Index No. 11-137-8-2-1) from source to Brier Creek was reclassified from Class D to Class C.

(e) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 12, 1979 as follows: Unnamed Tributary to Lower Little River (Robinette Creek) (Index No. 11-69-1.5) from source to Lower Little River was reclassified from Class C to Class B.

(f) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1982 as follows:

- (1) Spainhour Creek (Index No. 11-39-3) from source to Lower Creek was reclassified from Class C (1) to Class C; and
- (2) Allen Creek (Index No. 11-129-5-7-2-4) from source to Maiden Creek was reclassified from Class C to Class A-II.

(g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective January 1, 1985 as follows: Catawba Creek from source to N.C. Highway 275 was reclassified from Class C(1) to Class C.

(h) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1985 as follows:

- (1) Brier Creek (Index No. 11-137-8-2) from source to Little Sugar Creek was reclassified from Class C (1) to Class C;
- (2) Little Hope Creek (Index No. 11-137-8-3) from source to Little Sugar Creek was reclassified from Class C (1) to Class C; and
- (3) McMullen Creek (Index No. 11-137-9-5) from source to N.C. Highway 16 was reclassified from Class C (1) to Class C.

(i) The Schedule of Classification and Water Quality Standards for the Catawba River Basin was amended effective February 1, 1986 with the reclassification of all A-I & A-II streams to WS-I & WS-III in the Catawba River Basin.

(j) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1989 as follows:

Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW. (k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective May 1, 1989 as follows:

- (1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C and C trout to Class WS-I ORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C; and
- (2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.

(l) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1990 as follows:

- (1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW; and
- (2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.

(m) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1990 as follows:

- (1) The classification for the portion of Mackey Creek [Index No. 11-15-(2)] from Marion Water Supply Intake to Laurel Fork was reclassified from Class C to Class C HQW;
- (2) Laurel Fork Creek [Index No. 11-15-3] from source to Mackey Creek was reclassified from Class C Tr to Class C Tr HQW;
- (3) Armstrong Creek [Index No. 11-24-14-(1)] from source to Bee Rock Creek was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
- (4) Linville River [Index Nos. 11-29-(16) and 11-29-(19)] were reclassified from Class B Tr and Class B to Class B Tr HQW and Class B HQW, respectively;

- (5) Upper Creek [Index No. 11-35-2-(8.5)] and its named tributaries was reclassified from Class C Tr to Class C Tr HQW;
 - (6) Upper Creek (Clear Water Beach Lake) [Index No. 11-35-2-(10)] from Holly Spring Branch to Dam Clear Water Beach Lake was reclassified from Class B Tr to Class B Tr HQW;
 - (7) Holly Spring Branch [Index No. 11-35-2-11] from source to Upper Creek was reclassified from Class C Tr to Class Tr HQW;
 - (8) Steels Creek [Index No. 11-35-2-12-(5)] from Little Fork to a point 1.7 miles upstream from N.C. Highway 181 Bridge was reclassified from Class B Tr to Class B Tr HQW and Steels Creek [Index No. 11-35-2-12-(7)] from a point 1.7 miles upstream from N.C. Highway 181 bridge to Clear Water Beach Lake, Upper Creek was reclassified from Class B to Class B HQW;
 - (9) Upper Creek [Index No. 11-35-2-(13)] from Dam at Clear Water Beach Lake to Warrior Fork was reclassified from Class WS-III Tr to Class WS-III Tr HQW;
 - (10) The portion of Johns River [Index No. 11-38-(28)] from Wilson Creek to Rhodhiss Lake, CatawbRiver was reclassified from Class C to Class C HQW;
 - (11) Mulberry Creek [Index No. 11-38-32-(1)] from source to Boone Fork and its tributaries Left Fork Mulberry Creek [Index No. 11-38-32-2], Right Fork Mulberry Creek [Index No. 11-38-32-3], Roaring Creek [Index No. 11-38-32-8] and Clark Branch [Index No. 11-38-32-10] were reclassified from Class C Tr to Class C Tr HQW;
 - (12) Amos Creek [Index No. 11-38-32-4] and Mills Creek [Index No. 11-38-32-5] and their named tributaries were reclassified from Class C to Class C HQW;
 - (13) Cane Branch [Index No. 11-38-32-6], Rush Branch [11-38-32-7] and Frankum Creek [11-38-32-9] and its named tributaries were reclassified from Class C to Class C HQW;
 - (14) Mulberry Creek [Index No. 11-38-32-(11)] from Boone Branch to Dam at Mulberry Beach was reclassified from Class B to Class B HQW;
 - (15) Boone Branch (Fork) [Index No. 11-38-32-12] and its named tributaries from source to Mulberry Creek was reclassified from Class B to Class B HQW;
 - (16) Brown Branch [Index No. 11-38-32-13] and Moore Branch [Index No. 11-38-32-14] were reclassified from Class B to Class B HQW; and
 - (17) Anderson Creek [Index No. 11-38-32-16] was reclassified from Class C to Class C HQW.
- (n) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (o) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1994 as follows:
- (1) Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class C to Class B; and
 - (2) The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.
- (p) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.
- (q) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective September 1, 1996 as follows:
- (1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and
 - (2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV&B CA.
- (r) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 as follows:

Fiscal Note for 15A NCAC 2B .0308 Catawba River Basin

- (1) The primary classification for portions of South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] was reclassified from Class WS-IV to Class WS-V;
 - (2) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class Tr HQW;
 - (3) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries were reclassified from Class C Tr to Class Tr HQW; and
 - (4) Harris Creek to McDowell County SR 1434, including all tributaries were reclassified from Class C to Class HQW.
- (s) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 as follows:
- (1) Portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV & B and WS-IV to Class WS-V & B and WS-V;
 - (2) Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW;
 - (3) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals Dam [Index No. 11-(72)] from Class WS-IV&B to Class WS-IV&B CA;
 - (4) The classifications of tributary streams that are within five miles and draining to the normal pool elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and
 - (5) The classifications of tributary streams that are within one half mile and draining to the normal pool elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.
- (t) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.
- (u) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry Fork [11-129-1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used City of Morganton Water Intake from Class WS-I ORW to Class WS-V ORW.
- (v) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River [Index No. 11-(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek (Morganton water supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout. Between the last day of May and the first day of November the water quality standard for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l.
- (w) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended September 1, 2010 with the reclassification of the portion of the Catawba River [Index No. 11-(1)], from its source to the Left Prong Catawba River confluence, and its named tributaries, Chestnut Branch (Fork) [Index No. 11-2], Clover Patch Branch [Index No. 11-3], Youngs Fork Creek [Index No. 11-4], Spring Branch [Index No. 11-5], and Left Prong Catawba River [Index No. 11-6] from Class C Tr to Class C Tr HQW.
- (x) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended March 1, 2013 as follows:
- (1) the portion of Maiden Creek [Index No. 11-129-5-7-2-(1)] from source to a point 0.7 mile upstream from backwaters of Maiden Reservoir, and its named tributary, Bee Branch [Index No. 11-129-5-7-2-2], from Class WS-II HQW to WS-V;
 - (2) the portion of Maiden Creek [Index No. 11-129-5-7-2-(2.5)] from a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir from Class WS-II HQW CA to WS-V;
 - (3) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(1)] from source to a point 0.7 mile upstream of Maiden water supply intake from Class WS-II HQW to WS-V; and
 - (4) the portion of Allen Creek [Index No. 11-129-5-7-2-4-(2)] from a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake from Class WS-II HQW CA to WS-V.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Fiscal Note for 15A NCAC 2B .0308 Catawba River Basin

Eff. February 1, 1976;
Amended Eff. March 1, 2013; December 1, 2010; September 1, 2010; May 1, 2007; August 1,
2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995; April 1,
1994; August 3, 1992; August 1, 1990.



PROPOSED WATER SUPPLY RECLASSIFICATION OF MAIDEN CREEK AND ALLEN CREEK: PUBLIC HEARING SET FOR AUGUST



A public hearing is going to be conducted in order to receive public comments on the proposed reclassification and associated fiscal note for two sections of Allen Creek and two sections of Maiden Creek in Catawba and Lincoln Counties (Catawba River Basin). The Town of Maiden has requested that these creek portions be reclassified from Water Supply -II (WS-II) High Quality Waters (HQW) to WS-V, which would recognize that these waters are formerly used public water supplies.

PUBLIC HEARING

Location: Tuttle Elementary School
2872 Water Plant Road
Maiden, NC 28650

Date: Thursday, August 16, 2012

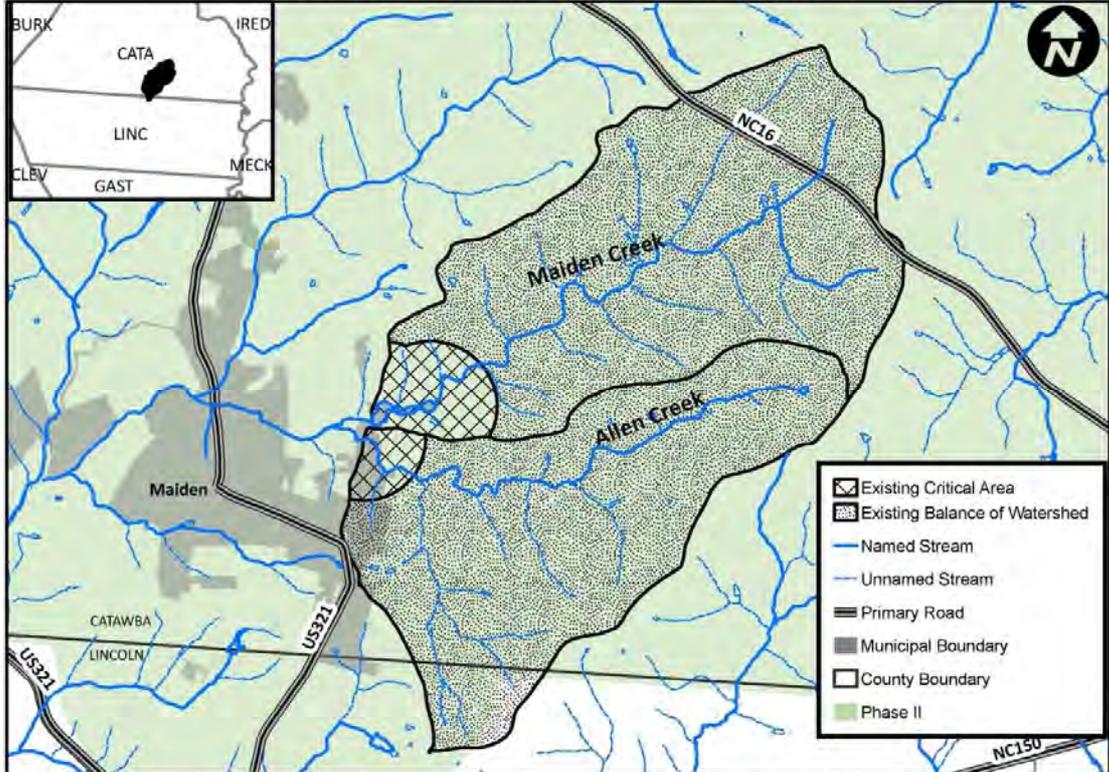
Time: 7:00 p.m.

WATERS TO BE AFFECTED BY THE PROPOSED RECLASSIFICATION

The portion of Maiden Creek proposed to be reclassified to WS-V extends from its source to the Maiden Reservoir dam near Water Plant Road, and includes approximately 5,280 acres. There is one named tributary to this section of Maiden Creek (Bee Branch) that is to be reclassified to WS-V. The portion of Allen Creek proposed to be reclassified to WS-V extends from its source to the planned Maiden water supply intake, and includes nearly 4,293 acres. Allen Creek was approved for a new water intake to be located near Water Plant Road, but the Town never built an intake in the creek. However, the Town did utilize water from Allen Creek a few times during past droughts.

Proposed WS-V Reclassification of Maiden Creek and Allen Creek

Catawba and Lincoln Counties, Catawba River Basin, North Carolina



Map Source: NCDENR Division of Water Quality, Classifications and Standards Unit; Produced 29Dec2011
This map is only as good as the data available when it was printed and is not intended to replace any rule, regulation or classification schedule.
North Carolina Division of Water Quality | www.ncwaterquality.org | 512 N. Salisbury St., Raleigh, NC 27604

REGULATIONS ASSOCIATED WITH THE PROPOSED RECLASSIFICATION

If these waters are reclassified to WS-V, WS-II rules prohibiting new landfills and new land application sites will no longer apply in the Critical Areas of these watersheds, nor will the WS-II restrictions for new development apply to the entirety of these watersheds (see map). In addition, the water supply water quality standards, but not the WS-II rules restricting types of wastewater discharges, would apply to the two watersheds. The requirements related to the WS-II and WS-V designations are located on the internet at <http://portal.ncdenr.org/web/wq/ps/csu/rules>.

There is no requirement that the ordinances of Catawba County, Lincoln County, and Town of Maiden be amended to remove the WS-II development restrictions. Nevertheless, if these local governments decide to no longer enforce these WS-II rules, applicable Phase II rules for new development would need to be implemented by the Town of Maiden and the state. The Phase II rules contain less stringent requirements than the WS-II rules and only affect new development disturbing one or more acres of land, which does not include most new individual homes and existing home expansions.

There are currently no permitted or known planned wastewater discharges in the proposed areas. In the existing WS-II CAs, there are currently no permitted or known planned landfills and application sites. In addition, there is no known planned development in the subject areas. The subject areas are currently, and projected to be, a mixture of undeveloped forested and pasture lands, which the WS, HQW, and Phase II rules do not affect.

A fiscal analysis for this proposal has been completed and approved, and the analysis' quantifiable results revealed no cost to the local municipality and counties involved, and a one-time cost of \$355 to the state.

MEETING FEDERAL TRIENNIAL REVIEW REQUIREMENTS

The public hearing and comment period are to be held in accordance with the federal Clean Water Act that requires States, at least every three years, to review and revise water quality standards. These standards are provided in existing rules NCAC 15A 02B .0100 and .0201 through .0228. The process is called the Triennial Review and includes an assessment and revision of the designated uses of waters (classifications) and the water quality criteria (standards), which are based on the designated uses. More specifically, this public hearing and comment period are to address the potential assignment of a WS-V classification to portions of both the Maiden Creek and Allen Creek watersheds. This proposal will not result in changing the water quality standards for the subject watersheds.



HOW TO SUBMIT COMMENTS

You may attend the public hearing and provide verbal comments that specifically address the proposed reclassification and its fiscal note for Allen Creek and Maiden Creek. The Hearing Officer may limit the length of time that you may speak at the public hearing, if necessary, so that all those who wish to speak may have an opportunity to do so. In addition, written comments addressing the proposed reclassification and fiscal note for Allen Creek and Maiden Creek will be accepted until September 14, 2012.

All persons interested and potentially affected by the proposal are encouraged to read this announcement and make comments on the proposal. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the North Carolina Register unless the EMC publishes the text of the proposed different rule and accepts comments on the new text. The proposed effective date for this proposed reclassification is March 1, 2013. Written comments on the proposed reclassification of Maiden Creek and Allen Creek may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, e-mail address, or fax number listed below.

FOR ADDITIONAL INFORMATION

This announcement and a map of the waters proposed to be reclassified are located on the internet via <http://portal.ncdenr.org/web/wq/event-calendar> (look under "2012-08-16"). Further explanations and details on reclassifications may be obtained by writing or calling:

Elizabeth Kountis, DENR-Division of Water Quality, Planning Section
1617 Mail Service Center, Raleigh, NC 27699-1617
phone (919) 807-6418, fax (919) 807-6497, e-mail Elizabeth.Kountis@ncdenr.gov

To learn more about how the Division of Water Quality protects water quality in North Carolina, go to <http://portal.ncdenr.org/web/wq/home/wyk>.

In the case of inclement weather on the day of the scheduled public hearing, please contact the above telephone number for a recorded message regarding any changes to the location, date, or time of the hearing.





North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

July 18, 2012

TO: Major Newspapers of NC

FROM: Ms. Elizabeth Kountis
Environmental Senior Specialist
N.C. Department of Environment and Natural Resources
Division of Water Quality

SUBJECT: Publication of Announcement for Proposed Reclassification of Maiden Creek and Allen Creek

Attached is an announcement for the Proposed Reclassification of the Maiden Creek and Allen Creek. The legal requirements for notice as required by G.S. 150B-21.2 have been met by publishing this notice in the *NC Register*. Publishing this notice in newspapers is not a statutory requirement and has therefore been recently cut from the Department's budget as non-essential spending. However, we do recognize that newspapers are one of the most effective methods to convey information to the public, and many newspapers contain a public announcement (or similar) section that does not charge a fee to service its readers with public announcements. Therefore, we are presenting the attached announcement to you for your information to publish at your discretion.

Should you decide to publish this information, it would be greatly appreciated if you would notify us. I can be contacted at any of the following:

By Email: Elizabeth.Kountis@ncdenr.gov
By Fax #: (919) 807-6497
By postal mail:
Ms. Elizabeth Kountis
NCDENR-DWQ-Planning Section
1617 Mail Service Center, Raleigh, NC 27699-1617
By phone: (919) 807-6418

If you should have any questions, please do not hesitate to contact me. Thank you sincerely for your consideration.

Enclosure

1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Phone: 919-707-8600 \ Internet: www.ncdenr.gov

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North Carolina Department of Environment and Natural Resources

Division of Water Quality

Beverly Eaves Perdue
GovernorCharles Wakild, P. E.
DirectorDee Freeman
Secretary

June 22, 2012

MEMORANDUM

TO: Corey Basinger
FROM: Chuck Wakild 
SUBJECT: Hearing Officer Designation

I hereby designate you as the Hearing Officer for the public hearing to be held on the proposed reclassification of Maiden Creek and Allen Creek in Lincoln and Catawba Counties (Catawba River Basin) from Class WS-II HQW and Class WS-II CA HQW to Class WS-V. A Planning Section staff member will be contacting you to discuss the process and establish the date, time, and location of the public hearing.

The purpose of the hearing is to receive public comments on the proposed reclassification. You are requested to hold the hearing and receive all relevant comments. Following the close of the hearing record, staff will work with you in developing findings and recommendations to be considered by the EMC. If reclassified, the effective date of the rule is expected to be March 1, 2013.

A copy of the public announcement for this hearing will be forwarded to you. I appreciate your willingness to be a part of this rule-making process. If you have any questions, please contact Elizabeth Kountis (919-807-6418).

CW:ek

cc: Elizabeth Kountis

LIST OF ATTENDEES

**PROPOSED RECLASSIFICATION OF MAIDEN CREEK AND ALLEN CREEK
PUBLIC HEARING: AUGUST 16, 2012, MAIDEN, NC**

Hearing Officer

Basinger Corey Regional Supervisor, Winston-Salem Regional Office

Division of Water Quality Staff (CSU = Classifications and Standards Unit)

Kountis Elizabeth Senior Environmental Specialist, CSU, Planning Section
 Weaver Adriene Senior Environmental Specialist, CSU, Planning Section
 Reid Dianne Supervisor, CSU, Planning Section
 Ventaloro Julie Water Supply Watershed Protection Program Coordinator, Wetlands & Stormwater Branch
 Krebs Rob Regional Supervisor, Mooresville Regional Office
 Buckhard Michael Senior Environmental Specialist, Mooresville Regional Office
 Sifford Barbara WWTP Consultant, Mooresville Regional Office

Department of Environment and Natural Resources

Bailey Harry NC Division of Water Resources, Washington Regional Office

Citizens in Attendance (*=made verbal comments)

<u>Last Name</u>	<u>First Name</u>	<u>Entity Representing</u>	<u>City</u>	<u>County</u>	<u>State</u>
Timberlake	Chris	Catawba County	Maiden	Catawba	NC
Chandler	Jack	Catawba County	Newton	Catawba	NC
Hood	Clarence	Catawba County Farm Bureau	Newton	Catawba	NC*
Perkins	Sam	Catawba Riverkeeper	Charlotte	Mecklenburg	NC
Lawing	Anthony	Lawing Real Estate	Newton	Catawba	NC*
Goodson	Howard	NA	Maiden	Catawba	NC
Kain	Greg	NA	Maiden	Catawba	NC*
Shultz	Sam	Town of Maiden	Maiden	Catawba	NC
Gallegos	Tony	Western Piedmont COG	Hickory	Catawba	NC*

Kountis, Elizabeth

From: Terry Watts [twatts@hickorync.gov]
Sent: Tuesday, July 17, 2012 4:23 PM
To: Kountis, Elizabeth
Subject: RE: Comment Period and Hearing for Maiden Creek and Allen Creek Reclassification

Elizabeth,

I have spoke with our chief planner and we support the reclassification as requested by the Town of Maiden.

If you have any questions, please advise.

Terry Watts
 Civil Engineer
 Engineering Department
 City of Hickory

From: Kountis, Elizabeth [mailto:elizabeth.kountis@ncdenr.gov]
Sent: Tuesday, July 17, 2012 3:29 PM
To: Terry Watts; lance.hight@conovernnc.gov; cbartleson@newtonnc.gov
Subject: Comment Period and Hearing for Maiden Creek and Allen Creek Reclassification

Attached is an announcement for a comment period and an upcoming public hearing for the proposed surface water reclassification of two sections of Maiden Creek and two sections of Allen Creek (Catawba and Lincoln Counties, Catawba River Basin). These waters are proposed to be reclassified from Water Supply-II (WS-II) Critical Area (CA) High Quality Waters (HQW) and WS-II (Balance of Watershed or BW) HQW to WS-V. The Town of Maiden (Town) has requested this reclassification, which will recognize that these waters are formerly used public water supplies, and Town council and staff understand that the Town cannot use these waters as a source of public water supply once these waters are reclassified to WS-V.

The public hearing and comment period are being held in accordance with the federal Water Pollution Control Act (the Clean Water Act) that requires States to conduct a Triennial Review, which includes an assessment and revision of the designated uses of waters (classifications) and associated water quality criteria (standards). This announcement will appear on a few listservs, so I apologize in advance if you receive this information more than once.

Comments on the proposed reclassification may be submitted in writing, fax, or email anytime through September 14, 2012 to the following:

Elizabeth Kountis
 DENR-Division of Water Quality, Planning Section
 1617 Mail Service Center
 Raleigh, NC 27699-1617
 Fax (919) 807-6497
Elizabeth.Kountis@ncdenr.gov

If you or any of your staff would like to attend the hearing, please let me know which staff are planning to attend by August 9th, 2012, and know that I would like to introduce that staff at the hearing. The date, time, and location of the public hearing are as follows:

August 16, 2012
 7:00 p.m.

Tuttle Elementary School
2872 Water Plant Road
Maiden, NC 28650

Please reference the attached hearing announcement for further details regarding the hearing, comment period, and proposed reclassification. The hearing announcement, along with the fiscal note and other information for this proposed reclassification, is also located on the internet at:
<http://portal.ncdenr.org/web/wq/event-calendar> (look under "2012-08-16").

If you should need additional information, the DWQ staff contact is Elizabeth Kountis at (919) 807-6418.

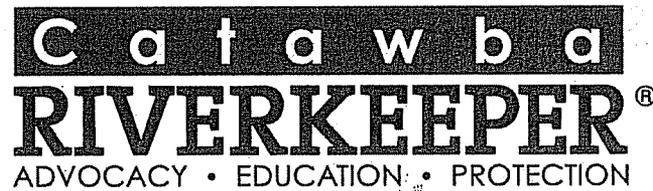
Please feel free to forward this email to parties you think may be interested in the proposed reclassification, including staff with your local government.

Elizabeth Kountis

Senior Environmental Specialist
Classifications & Standards Unit
NC DENR Division of Water Quality
Tel: (919) 807.6418 FAX: (919) 807.6497

www.ncwaterquality.org/CSU

E-mail correspondence to and from this address may be subject to the NC Public Records Law and may be disclosed to third parties.



12 September 2012

Ms. Elizabeth Kountis
Reclassification Coordinator
Division of Water Quality
NC Dept. of Environmental and Natural Resources

RE: Comments on the Proposed Reclassification of Maiden and Allen Creeks

Dear Ms. Kountis:

The Catawba Riverkeeper® Foundation ("Catawba Riverkeeper" or "CRF") is a 501(c)(3) non-profit environmental conservation organization based in North Carolina, which has been working to protect the Catawba River since 1997. Our mission is to advocate for and secure protection and enhancement of the Catawba River and its lakes, tributaries and watershed so that it will always sustain the human and wildlife populations that depend on it for life. With approximately 750 members throughout the 25 counties that span the Catawba-Wataree River basin, CRF is the only local river conservation and advocacy organization focused solely on the protection and enhancement of the Catawba River.

The proposed reclassification would affect a basin that had once been planned to provide drinking water for the Town of Maiden. However, the town currently purchases and imports water from the City of Hickory, which pulls its water from Lake Hickory. Additionally, the reservoir site of what was going to be the Maiden water treatment plant has degraded over time without proper upkeep to counter the sediment and nutrients washing into it from agriculture in the basin. The current consensus of locals seems to be that it is not an immediately viable site for a water treatment plant, and the town is content with purchasing water from elsewhere.

Ms. Elizabeth Kountis
September 14, 2012



While current conditions are favorable for continuing to utilize Hickory for their source of drinking water, CRF is concerned that with the reclassification, Maiden will lose a pivotal potential option for drinking water. While this year has been relatively plentiful with regard to rainfall, a drought like that seen in 2007 could develop at any time, and the demand on water supplies everywhere is greater than ever. A majority of the land around Maiden has less restrictive water classification conducive to the development currently restricted in the Maiden and Allen watersheds. Furthermore, any development in these creek watersheds would increase the drinking water demand, which is already not being met locally and creates an even greater potential for a crisis were there ever issues with receiving water – at a reasonable financial rate or even at all – from Hickory. The current lack of proposals for industrial or development projects that would impact the water quality in the basin should not justify easing the restriction, as many projects will not even begin planning if the current water classification inhibits them.

Duke Energy currently projects that between 2048 and 2058, the demand for water in Catawba River basin could begin to exceed the supply water as demand in the basin – in Maiden, Hickory and everywhere else – continues to grow. More than ever, a town like Maiden, serving more than 3,000 residents, needs to plan for the near future and have its own drinking water supply. Admittedly the supply might not be able to serve the entire service area, but in a drought crisis or simply as a supplement, it could prove invaluable.

We also believe that there should be a good reason to downgrade a stream other than simply the possibility that it might encourage development (and sprawl). There are a limited number of streams in the Catawba basin that remain suitable as a potential source of drinking water in the future and it is important to not needlessly allow these streams to be degraded.

Ms. Elizabeth Kountis
September 14, 2012



For these reasons, we oppose the reclassification of the Maiden Creek and Allen Creek watersheds without a viable plan for a local source of water.

Conclusion

Catawba Riverkeeper Foundation, Inc. appreciates the opportunity to comment on the proposed reclassification. If you have any questions, please do not hesitate to contact us. Our address and phone number follows: Catawba Riverkeeper Foundation; 421 Minuet Lane, Suite # 205; Charlotte, NC 28217. My email address is sam@catawbariverkeeper.org and our phone number is (704) 679-9494.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Sam Perkins".

S. Sam Perkins
Director of Technical Programs